

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
June 10, 2003

Mayor Griffith called the meeting to order at 6:33 p.m.

Council Present: Mayor Griffith; Councilors Dirksen, Moore, Sherwood, and Wilson

- STUDY SESSION

- PUBLIC FACILITIES AND SERVICES ASSESSMENT FOR THE BULL MOUNTAIN AREA

Community Development Director Hendryx distributed a draft report and reviewed the key elements of the services assessment for the Bull Mountain area. The report outlines methods of annexation, timing of annexation and sequencing of events that would occur with annexation. The draft report proposes evaluation criteria as to how the City could efficiently and effectively provide services to the Bull Mountain area and to manage growth. Mr. Hendryx distributed a memo outlining a schedule for future Council discussions on the report.

City Manager Monahan noted that the City Council and Washington County Board of Directors will hold a joint meeting on July 29. At that time, the two governing bodies can discuss collecting Systems Development Charges for the Bull Mountain area that is now in the County's jurisdiction.

- CITY MANAGER'S PERFORMANCE REVIEW

Mayor Griffith gave to the City Manager evaluation rating sheets completed by Council members. The next step is for the Council and Manager to discuss the evaluation and to set goals.

- ADMINISTRATIVE ITEMS

- Councilor Moore will update Council on 6/17 regarding planning for the 2004 Tigard Festival of Balloons
 - Letter of testimony distributed (Krager) – Reimbursement District No. 29
 - Revised Resolution Distributed for Agenda Item No. 9 – Budget Adoption for FY 03/04
 - August 19 meeting with County Commissioners has been canceled. Alternate date - the evening of July 29
 - Department Tours & Ride Alongs – proposed schedule was discussed with Councilors Sherwood and Wilson.

1. BUSINESS MEETING

- 1.1 Mayor Griffith called the City Council and Local Contract Board meeting to order at 7:32 p.m.
- 1.2 Roll Call - Mayor Griffith; Councilors Dirksen, Moore, Sherwood, and Wilson
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports - None
- 1.5 Call to Council and Staff for Non-Agenda Items - None

2. PROCLAMATIONS - Mayor Griffith proclaimed June as Tigard Safety Month and June 14th as Flag Day.

3. VISITOR'S AGENDA

Gretchen Buehner, 13249 SW 136th Place, Tigard, Oregon, referred to the annexation report received by Council during the Study Session portion of this meeting. She stated concerns about three new developments in process and that a substantial amount of open space for the area will be gone.

4. CONSENT AGENDA: Motion by Councilor Sherwood, seconded by Councilor Wilson to adopt the Consent Agenda as follows:

- 4.1 Approve Council Minutes for May 13, 20, and 27, 2003
- 4.2 Receive and File:
 - a. Council Calendar
 - b. Tentative Agenda
- 4.3 Approve Update of the City's Room Use Policies and Procedures – Resolution No. 03 - 18
 - Approve Revision to the Washington County Interagency Narcotics Team Intergovernmental Agreement
 - Approve Submittal of Fiscal Year 2002 State Domestic Preparedness Equipment Grant
 - Local Contract Review Board:
 - a. Approve Awarding of Purchase Agreement to Garten Mailing Services for Mailing and Barcode Services for Utility Billing and Other Special Mailings

The motion was approved by a unanimous vote of Council:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes

5. UPDATE ON THE NEW TIGARD LIBRARY

Library Director Margaret Barnes updated the Council. The design is complete and construction is scheduled to begin in July. The project remains on schedule and within budget. Ms. Barnes showed highlights of the May 17, 2003, groundbreaking ceremony.

6. PUBLIC HEARING – CONSIDER A RESOLUTION CERTIFYING THAT THE CITY OF TIGARD PROVIDES SERVICES QUALIFYING FOR STATE SHARED REVENUES

- a. Mayor Griffith opened the public hearing.
- b. Summation by Finance Staff - Finance Director Craig Prosser presented the staff report.
- c. Public Testimony: None
- d. Staff Recommendation: Recommended adoption of proposed resolution.
- e. Mayor Griffith closed the public hearing.
- f. Council Consideration: Motion by Councilor Moore, seconded by Councilor Dirksen, to adopt Resolution No. 03-19.

RESOLUTION NO. 03-19 – A RESOLUTION CERTIFYING THAT THE CITY OF TIGARD PROVIDES SERVICES QUALIFYING FOR STATE SHARED REVENUES

- The motion was approved by a unanimous vote of Council:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes

7. PUBLIC HEARING - CONSIDER AN ORDINANCE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES

- a. Mayor Griffith opened the public hearing.

- b. Summation by Finance Staff - Finance Director Craig Prosser presented the staff report.
- c. Public Testimony: None
- d. Staff Recommendation: Mr. Prosser recommended adoption of proposed resolution.
- e. Mayor Griffith closed the public hearing.
- f. Council Consideration: Motion by Councilor Wilson, seconded by Councilor Sherwood to adopt Ordinance No. 03-04.

ORDINANCE NO. 03-04 – AN ORDINANCE DECLARING THE CITY’S ELECTION TO RECEIVE STATE REVENUES

- The motion was approved by a unanimous vote of Council:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes

8. PUBLIC HEARING – APPROVE THE CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2003-2004

- a. Mayor Griffith opened the public hearing.
- b. Summation by Engineering Staff – City Engineer presented the staff report. Highlights of Mr. Duenas' presentation were shown on PowerPoint slides. Copies of these slides are on file with the City Recorder.
- c. Public Testimony –
 - Steven Kusna, 10755 SW Derry Dell, Tigard, discussed with the City Council the problems with Highway 99W, which is a State highway (Oregon Department of Transportation). There was discussion on promoting alternative routes.
 - Andrew Spiak, 9825 SW O'Mara Street, Tigard, asked questions about Bonita Road. He offered that it appeared the road was not holding up at those places where there had been excavating for utilities. City Engineer Duenas acknowledged that utility cuts accelerate the degradation of the

pavement; however, he also said that much of the wear and tear of Bonita has been caused by traffic as evidenced by wheel ruts in the pavement.

- d. **Staff Recommendation:** City Engineer Duenas recommended approval of the capital improvement program as presented.
- e. **Council Discussion:** City Engineer noted that a new process will be implemented next fiscal year for setting priorities for capital improvement projects, since the Citizen Involvement Team program has been discontinued. Councilor Wilson expressed an interest in reviewing how priorities are set for capital projects, and after discussion, he agreed to be the Council Liaison for the reevaluation of where capital dollars should be spent next year.
- f. Mayor Griffith closed the public hearing.
- g. **Council Consideration:** Motion by Councilor Moore, seconded by Councilor Dirksen, to adopt the fiscal year 2003-2004 Capital Improvement Program and Projects.
- h. The motion was approved by a unanimous vote of Council:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes

9. **PUBLIC HEARING - CONSIDER A RESOLUTION ADOPTING THE BUDGET, MAKING APPROPRIATIONS, DECLARING THE VALOREM TAX LEVY AND CLASSIFYING THE LEVY AS PROVIDED BY ORS 310.060(2) FOR FISCAL YEAR 2003-2004**

- a. Mayor Griffith opened the public hearing.
- b. Finance Director Craig Prosser presented the staff report and summarized the process of review by the Budget Committee. Mr. Prosser reviewed his June 6 memorandum noting FY 2003-04 Budget amendments to add \$21,850 to the Library book budget, \$4,013 to Cityscape printing, and \$10,957 to Building Division temporary staffing.
- c. **Public Testimony:** None

- d. Staff Recommendation: Adopt the FY 2003-04 budget (as amended) and approval for application for two Domestic Preparedness Equipment Program Grants by the Police Department.
- e. Mayor Griffith closed the public hearing.
- f. Councilor Consideration: Motion Councilor Sherwood, seconded by Councilor Dirksen, to accept the amendments to the FY 2003-04 budget as presented by Finance Director Prosser.

- The motion was approved by a unanimous vote of Council:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes

Motion by Councilor Moore, seconded by Councilor Sherwood, to adopt Resolution No. 03-20.

RESOLUTION NO 03-20 – A RESOLUTION OF THE CITY OF TIGARD ADOPTING THE BUDGET, MAKING APPROPRIATIONS, DECLARING THE VALOREM TAX LEVY AND CLASSIFYING THE LEVY AS PROVIDED BY ORS 310.060(2) FOR FISCAL YEAR 2003-04

- The motion was approved by a unanimous vote of Council:

Mayor Griffith	-	Yes
Councilor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes

10. PUBLIC HEARING (INFORMATIONAL) TO CONSIDER ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 28 – PORTIONS OF SW O'MARA STREET, SW FREWING STREET, SW EDGEWOOD STREET, SW HILL VIEW COURT, AND SW MCDONALD STREET

- a. Mayor Griffith opened the public hearing.
- b. Summation by Engineering Department: Project Engineer Greg Berry presented the staff report on this agenda item. A report summary is on file with the City Recorder.

c. Public Testimony:

Mike Monnie, 9715 SW O'Mara, Tigard, noted there was no attachment to the hearing notice to residents in the proposed reimbursement district. Residents did not have information about assessment amounts or why the City was recommending this project.

After discussion among Council members, staff and residents in the audience, Mayor recessed the meeting at 8:59 p.m. so staff could make copies of the assessment information to distribute to residents for this reimbursement district and for the district to be considered for Agenda Item No. 11.

The meeting reconvened at 9:30 p.m.

In response to Mr. Monnie, the Mayor explained why reimbursement districts were being formed in areas of the City where no sewer service is available. In some areas septic systems are failing. The City Council decided to plan for sewer service for all properties within the City.

- Glen McCord, 9965 SW McDonald, Tigard, asked questions about the bid process, noting that he had seen evidence of this project going out to bid on the Internet. He questioned timing of awarding the bid with the assessment estimates. He also requested information about the total costs for hooking up to the sewer, including decommissioning of the septic system, the connection fee, and constructing the line from the house to the sewer line in the street.
- Arnie Fuchs, 9530 SW O'Mara Street, Tigard, questioned the assessment based on square footage of the properties located within the district. He said he did not think this was a fair way to assess and requested reevaluation.

Steven Shehorn, 9765 SW O'Mara, noted concerns about whether his property would accommodate a gravity sewer connection; that is, does the sewer on his property need to be pumped? Mr. Berry advised that residents were contacted if a pump was required. Therefore, if Mr. Shehorn has not been contacted then his property can have a gravity connection.

- Andrew Spiak, 9825 SW O'Mara, asked questions concerning how assessments were calculated. In response to Mr. Spiak, Mr. Berry said he

would need to check to determine whether bids had been received and, if so, how the estimated assessments would be affected.

After discussion Council members decided to table the public hearings scheduled for Agenda Item Nos. 10 and 11 to give staff time to respond to questions brought forward by residents.

Motion by Councilor Dirksen, seconded by Councilor Sherwood, to table Agenda Item No. 10 to the June 24, 2003, Council meeting to give residents more time to have their questions answered by staff.

11. PUBLIC HEARING (INFORMATIONAL) TO CONSIDER ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 29 – SW PARK STREET, SW DERRY DELL COURT, SW COOK LANE AND SW WATKINS AVENUE

- a. Mayor Griffith opened the public hearing.
- b. Summation by Engineering Department: A copy of the summary staff report prepared by Project Engineer Greg Berry is on file in the City Recorder's office.
- c. Public Testimony
 - Terry Wiese, 10600 SW Park Street, Tigard, Oregon requested that an exact amount for the cost of this district be determined (after the bid award to a contractor).
 - Seven Cousineau, 10755 SW Derry Dell Court, Tigard, noted concerns about the cost of this district and what kind of return the City would expect on this investment. Councilor Sherwood explained elements of the sewer reimbursement program and the City's intention to provide infrastructure for services such as sewer.

Council agreed that this public hearing would be tabled to the June 24, 2003, to give residents more time to have their questions answered by staff.

12. CONSIDER AN ORDINANCE TO AMENDMENT SECTION 3.44.055(A) OF THE TIGARD MUNICIPAL CODE RELATING TO THE DEFINITION OF SUBSTANDARD UNDEVELOPED PROPERTY

Staff Report: Finance Director Craig Prosser presented the staff report. A summary is on file with the City Recorder.

Motion by Councilor Sherwood, seconded by Councilor Moore, to adopt Ordinance No. 03-05.

ORDINANCE NO. 03-05 – AN ORDINANCE AMENDING SECTION 3.44.050(A) OF THE TIGARD MUNICIPAL CODE RELATING TO THE DEFINITION OF SUBSTANDARD UNDEVELOPED PROPERTY

- The motion was approved by a unanimous vote of Council:

Mayor Griffith	Yes
Councilor Dirksen	Yes
Councilor Moore	Yes
Councilor Sherwood	Yes
Councilor Wilson	Yes

13. PUBLIC HEARING (QUASI-JUDICIAL) – APPEAL OF A DIRECTOR'S INTERPRETATION REGARDING BILLBOARD SIGNS; COMMUNITY DEVELOPMENT CODE 18.780

- a. Mayor Griffith opened the public hearing.
- b. Declarations or Challenges – Mayor Griffith reviewed the following with the Council:

Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits? No ex parte contacts were reported.

Have all members familiarized themselves with the application? All Council members indicated they were familiar with the application.

Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council? There were no challenges.

- c. Staff Report: Community Development Director Hendryx presented the staff report and a copy of the summary is on file in the City Recorder's office. Earlier this year building permits were requested for construction of freeway oriented signs. The permits were denied by Community Development Department staff after finding that the signs appeared to be billboards and would exceed the maximum allowable size and height for freeway oriented

signs. The Community Development Director issued his interpretation and the City Manager appealed the decision to the Council seeking affirmation. A separate appeal was filed on behalf of Media Arts, Inc.

d. Public Testimony

Mayor Griffith announced:

For all those wishing to testify, please be aware that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and parties an opportunity to respond to the issue will preclude an appeal to the Land Use Board of Appeals on this issue. Testimony and evidence must be directed toward the criteria described by staff or other criteria in the plan or land use regulation which you believe apply to the decision.

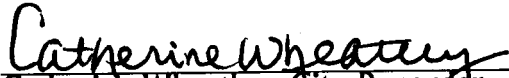
Opponent

- Michelle Rudd, Attorney for Media Arts, Inc., Stoel Rives, 900 SW 5th Avenue, Suite 2600, Portland, Oregon 97204, testified that the Tigard staff interpretations are in error. A letter, accompanied by a packet of information, was distributed to the City Council to address the issues "raised by the May 15, 2003 Director's Interpretation of portions of the City's sign ordinance." Ms. Rudd advised that the interpretation was ambiguous, suffered from Constitutionality problems, the pending applications were being judged by a different standard, and there was a violation of due process.

After discussion between Ms. Rudd and City Attorney Ramis, Council consensus was to set this hearing over to July 8 so the Council and City Attorney could review the materials submitted by Ms. Rudd. Attorney Rudd agreed to have any additional materials to be submitted to the Council for its review within one week. The staff report for the July 8 meeting will be available by July 1, 2003.

4. COUNCIL LIAISON REPORTS: None
5. NON AGENDA ITEMS: None
16. EXECUTIVE SESSION: Not held

17. ADJOURNMENT: 10:45 p.m.


Catherine Wheatley, City Recorder

Attest:



2.